

For Discussion Purposes Only

Texas Regional Haze SIP

Goal: Work with TCEQ to develop, and approve, a regional haze SIP that fulfills the state's obligation to meet the CAA's visibility requirements, and specifically the BART requirement for subject-to-BART EGUs.

EPA has a CD deadline of September 9, 2017, to fully approve a SIP or promulgate a FIP that addresses EGU BART in Texas. This is a constraint on EPA's desired SIP-based approach. EPA believes the odds that the court will grant an extension would be greatly enhanced if we have a document from Texas (preferably in the next few weeks) that is signed by an appropriate signature authority and that: (1) indicates that the state intends to submit a SIP revision to address EGU BART requirements; (2) describes the SIP revision with as much specificity as possible; (3) provides a planned schedule for developing and submitting the SIP that is as specific as possible; and (4) supports an extension because a SIP-based approach would minimize or resolve haze-related litigation with EPA. An updated SIP should address the following:

1. The Texas Regional Haze SIP (TX RH SIP) revision must include either source-specific SO₂ BART for subject-to-BART coal-fired EGUs or a SO₂ BART alternative (e.g., an intrastate trading program or CSAPR-better-than-BART).
 - Source-specific BART:¹ Under this approach, TCEQ could use the list of BART-eligible and subject-to-BART sources in EPA's 2017 BART FIP proposal and then conduct its own five-factor analyses for the subject-to-BART sources. In a previous conversation, TCEQ indicated that some sources might retire or convert to natural gas in the 2020s. If these commitments were made enforceable in the SIP, it becomes more likely that BART would be no new controls due to the shortened "remaining useful life" of the sources.
 - Intrastate Trading Program: TCEQ has indicated that a possible approach would be to develop an intrastate trading program that works from the CSAPR budget as an emissions cap and that relies on EPA's national CSAPR-better-than-BART demonstration. We look forward to better understanding this option so we can evaluate if it is approvable. In the meantime, EPA notes the following:
 - The program would likely need to include all EGUs that are included in CSAPR to match CSAPR's applicability requirements and the national CSAPR-better-than-BART demonstration.
 - EPA would need to revise 40 CFR 51.308(e)(4) to allow intrastate trading programs, an action that would complicate timing and would be subject to challenge in the D.C. Circuit.
 - The program would need to be fully implemented by December 31, 2018, unless EPA were to revise 40 CFR 51.308(e)(2)(iii).
 - The program would need to preserve EPA's CSAPR-better-than-BART demonstration and the ability of other states to rely on CSAPR to satisfy their BART obligations.
 - CSAPR-Better-than-BART: Under this approach, Texas would voluntarily adopt the CSAPR budget and participate in CSAPR for the sole purpose of meeting its SO₂ BART obligations. This approach likely presents the shortest timeline to approval, but poses significant state-law and other hurdles for TCEQ.
2. The TX RH SIP revision must include either source-specific NO_x BART for subject-to-BART coal- and gas-fired EGUs or a NO_x BART alternative. EPA recommends that the TX RH SIP revision replace reliance on CAIR with reliance on the CSAPR Update Rule's ozone-season NO_x program. Unless TCEQ chooses to fully participate in CSAPR for both SO₂ and NO_x, the TX RH SIP revision must also address PM BART for coal-fired EGUs. EPA recommends that the TX RH SIP revision establish PM emission limits that reflect current PM control capabilities.²

¹ The proposed FIP provides an initial view of source specific BART. We encourage TCEQ to submit detailed comments on the proposed BART FIP explaining the state's views on what controls, emission limits, and compliance schedules would be appropriate for the subject-to-BART sources.

² For example, EPA's proposed FIP relied on the Mercury and Air Toxics Standards (MATS) emission limit of 0.03 lb/MMBtu filterable PM (as a surrogate for toxic non-mercury metals) for coal-fired EGUs. We also sought comment on different, appropriately stringent limits that are reflective of current control capabilities.

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3. A more comprehensive SIP should provide an analysis that addresses the CAA's reasonable progress and long-term strategy requirements. The starting point for this analysis should be the visibility improvement that will be achieved in 2018 as a result of the implementation of BART and other CAA programs. The SIP revision could explain how recent visibility monitoring and emissions inventory data compare to the 2018 projections in the 2009 SIP and how this information affects the state's decisions. The SIP revision should also explain how the state considered the emission control measures evaluated in the reasonable progress FIP and indicate whether the measures should be considered in the second planning period.
4. TCEQ should also evaluate whether other parts of the 2009 SIP or related submittals (e.g., consultation requirements, the progress report SIP, or the prong 4 visibility transport SIPs) need to be revised to comply with applicable requirements as a result of updates made to BART and reasonable progress.
5. Texas has discretion to determine the appropriate format of the TX RH SIP, which could be a repeal and replace, a redline/strikeout, a narrative that adds to the 2009 SIP, or some other variation that follows the State's process.